

REMARKS

Status Summary

Claims 1-29 are pending in the present application. Claims 1-29 presently stand rejected. Claim 30 was previously canceled. Upon entry of this amendment, claims 1, 6, 7, 9, 10, and 27 will be amended and claims 31-33 will be added. Claims 3, 4, 5, 8 and 21 will be canceled. Thus, upon entry of this amendment, claims 1, 2, 6, 7, 9-20, 22-29 and 31-33 will be pending.

No new matter has been added. Reconsideration of the application as amended and based on the remarks set forth hereinbelow is respectfully requested.

Objections to the Claims

Claims 12, 23, 24, and 28 of the present application stand objected to for certain informalities. In particular, the Examiner asserts that perforate connection and non-restorable connection are used interchangeably.

Applicant respectfully disagrees. One of ordinary skill in the art would understand that a "non-restorable connection" is a broad term that would be any connection that could not be restored after detachment. One of ordinary skill in the art would further understand a "perforate connection" as being a subset within the broader term of "non-restorable connection".

Accordingly, in view of the above remarks and amendments, applicant respectfully submits that the objections to the claim should now be withdrawn.

Claim Rejections – 35 U.S.C. § 102

Claims 1-3, 4, 16-20, and 29 stand rejected by the Examiner under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,535,929 to Sherman, II et al. (hereinafter "Sherman"). This rejection is respectfully traversed.

Independent claim 1 recites a package having a container part which defines a cavity having an opening for receiving a product, a closure part which is movable from a closed position, in which it closes the opening to the cavity, to an open position in which it opens the opening to the cavity, and an outer surface having an address thereon which is covered by the closure part in the closed position thereof. The closed position is a first closed position and the closure part has a first configuration in the first closed position. The closure part is adapted to be moved from this first configuration to a second configuration in which it is able to adopt a second closed position in which it closes the opening to the cavity, but leaves the address uncovered. As amended, claim 1 recites that the closure part has a cover section which in the first closed position covers the address and which in the second closed position does not cover the address. The cover section of the closure part is a detachable cover section adapted to be detached from the closure part with the detachment of the detachable cover section moving the closure part from the first to the second configuration. Further, claim 1 has been amended to recite that the closure part has a permanent section which in the first and second closed positions is secured to the container part to close the opening to the cavity with the detachable cover section overlying the permanent section.

Applicant respectfully submits that Sherman does not anticipate independent claim 1 or the claims that depend therefrom as Sherman does not disclose all the features of independent claim 1. For example, Sherman does not disclose a detachable cover section of a closure part adapted to be detached from the closure part with the detachment of the detachable cover section moving the closure part from a first configuration to a second configuration. Further, Sherman does not disclose that the closure part has a permanent section which in the first and second closed positions is secured to the container part to close the opening to the cavity with the detachable cover section overlying the permanent section.

Sherman discloses a reusable box apparatus that includes a single blank from which a box is formed without the need for external fasteners, such as staples, adhesive, or tape. The single blank includes a plurality of interlocking tabs and slots for fastening the box together. The completed box includes two top flaps, both of which may be pre-addressed, for alternate use in two-way shipping, and which further includes cam elements for aligning tabs with slots for the easy release of the top flaps. Sherman stresses throughout that when assembled, a unitary box or container is provided that requires no extra elements, such as staples, adhesive, or tape, to secure the box together since the interlocking tabs and angled slots cooperate to lock the various sides and flaps of the box together. (See Sherman, for example, the abstract; column 1, lines 49-56; column 7, lines 17-21; column 8, lines 20-24.)

For example, as shown in Figures 2 and 3 of Sherman, the box apparatus **10** includes two top flaps, namely a top flap **120** and a top flap **140**, which may alternately

be used. With the top flaps **120** and **140** pre-addressed, the box apparatus **10** may be used for two-way shipment of goods. That is, one top flap may be pre-addressed for shipment from a first location to a second location, and the second top flap may be pre-addressed for shipment from the second location back to the first location. (See Sherman, column 2, lines 53-65; column 8, lines 13-19.) These top flaps are important in providing a unitary box or container that requires no extra elements, such as staples, adhesive, or tape, to secure the box together. The top flaps or panels **120** and **140** lock in place so that the entire container **10** is appropriately sealed without the need for external sealing elements. (See Sherman, column 8, lines 20-24.)

Thus, it is clear that one of the most important principles of operation of the reusable box apparatus in Sherman is to not require any extra elements, such as staples, adhesive, or tape, to secure the box together. To accomplish this, both top flaps need to be permanent and be exchangeably interlocking.

Sherman does not disclose that either of the top flaps is detachable or that any part of the top flaps are detachable. Further, Sherman does not disclose that one detachable flap overlies a permanent flap. In Sherman, both flaps need to be permanent to maintain the locking effect that allows the box or container to permit the box to be secured together with no extra elements, such as staples, adhesive, or tape. Thus, Sherman fails to disclose, teach, or suggest each and every feature of independent claim 1 of the present application, or the claims that depend therefrom.

For the reasons outlined above, applicant respectfully submits that Sherman fails to anticipate claim 1 of the present application. Claims 2, 16-20 and 29 depend from

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claim 1. As such, applicant respectfully submits that the rejections of claims 1, 2, 16-20 and 29 under 35 U.S.C. §102(b) should be withdrawn and the claims allowed at this time.

Claim Rejections – 35 U.S.C. § 103

Claims 4-15 and 21-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sherman in view of U.S. Patent No. 3,591,071 to Rosenburg, Jr. et al. (hereinafter, "Rosenburg"). This rejection is respectfully traversed.

Claims 4-15 and 21-28 depend from claim 1. As described above, Sherman does not disclose, teach, or suggest all the features of claim 1. For example, Sherman does not disclose, teach or suggest that the closure part has a permanent section which in the first and second closed positions is secured to the container part to close the opening to the cavity with the detachable cover section overlying the permanent section. Rosenburg does not overcome the significant shortcomings of Sherman. For example, Sherman and Rosenburg, alone or in combination, do not disclose, teach, or suggest that a closure part has a permanent section which in the first and second closed positions is secured to the container part to close the opening to the cavity with the detachable cover section overlying the permanent section. Further, to change the box apparatus of Sherman in the manner suggested by the Examiner would change its principle of operation.

Rosenburg discloses a recloseable carton produced from a paperboard blank and having an easy opening tear tab closure flap. When the tear tab is torn away from the front panel of the carton and the tear tab and attached cover panel are lifted, a tear-

out cover panel and a tear-out portion of the front panel are exposed which may be removed, permitting the carton to be reclosed with the cover panel covering the top of the box and the tear tab tucked along the interior side of the front panel. Conveniently, the tear-out cover panel which is torn out may be a coupon integral with the carton blank and further coupons may be retained between the cover panel and the tear-out cover panel.

Figure 1 of Rosenburg shows a novel carton blank designated by the general reference character **1**. The blank is provided with score lines **2** to form various panels and flaps including front panel **3**, bottom panel **4**, back panel **5**, cover panel **6**, and closure flap **7**. Also connected along score lines are side panels **8** and **9** connected to opposite ends of bottom panel **4**. Dust panels **10**, **11**, **12** and **13** are connected along score lines to opposite ends of front panel **3** and back panel **5** respectively. Connected by perforations **36** to front panel **3** opposite bottom panel **4** is a tear-out panel **14**. The tear-out panel **14** is connected by further perforations **33**, **34** and **35** to back tab **15** and end panels **16** and **17**. (See Rosenburg, column 2, lines 20-34.)

As can be seen in Figure 1 of Rosenburg, the blank **1** in its blank form is laid out flat. Thus, Figure 1 does not show that the tear-out panel **14** overlies the permanent cover panel **6** when the device is in the blank form as contended by the Examiner. Further, once the blank is folded into a box as shown in Figure 4 of Rosenburg, the tear-out panel **14** actually lies beneath the permanent cover panel **6**. Further, the cover panel **6**, when the blank **1** is folded into a box or container, overlies all detachable parts of Rosenburg (top panel **18**, tear-out panel **14** and integral coupon **26**). Thus,

Rosenburg does not overcome the significant shortcomings of Sherman outlined above because it does not disclose that the permanent cover panel **6** overlies the detachable tear-out panel **14** of the box or container formed by the folding of the blank **1**. Further, Rosenburg teaches away from such a structure, as recited in claim 1 of the present application, because Rosenburg only discloses, teaches or suggests that the permanent cover panel **6** overlies the detachable tear-out panel **14** of the box or container formed by the folding of the blank **1**. Therefore, Sherman and Rosenburg, alone or in combination, do not disclose, teach, or suggest each and every element recited by claim 1.

Further, modifying the box apparatus of Sherman in the manner suggested by the Examiner would change the principles of operation of Sherman. If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. (See MPEP §2143.01 citing In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).) As described above, one of the most important principles of operation of the reusable box apparatus in Sherman is to not require any extra elements, such as staples, adhesive, or tape, to secure the box together. Both top flaps as disclosed in Sherman need to be permanent and interlocking to permit the box to be secured together without extra elements, such as staples, adhesive, or tape.

To modify Sherman so that one flap is detachable, as disclosed in Rosenburg, would eliminate the ability of the top flaps from interlocking and thus prevent the

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securing of the box together without extra elements. The proposed modification of Sherman would thus change the principles of operation of the reusable box apparatus being modified. Therefore, the teachings of the references are not sufficient to render independent claim 1, or the claims that depend therefrom, *prima facie* obvious.

For the reasons set forth above, neither Sherman nor Rosenburg, alone or in combination, render independent claim 1 *prima facie* obvious. Claims 6, 7, 9-15, and 22-28 depend from claim 1 and are also not rendered obvious by the cited references. Accordingly, applicant respectfully submits that the rejections of claims 6, 7, 9-15, and 22-28 under 35 U.S.C. § 103(a) should be withdrawn and the claims allowed at this time.

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#### New Claims

New claims 31-33 have been added by this amendment as indicated above. Claim 31 depends from claim 23 which in turn depends from claim 1. Claim 32 depends from claim 31 and claim 33 depends from claim 32. It is respectfully submitted that new claims 31-33 are allowable over the cited references for at least the reasons given above with regards to claim 1. No new matter has been added.



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CONCLUSION

In light of the above amendments and remarks, it is respectfully submitted that the present application is now in proper condition for allowance, and an early notice to such effect is earnestly solicited.

If any small matter should remain outstanding after the Patent Examiner has had an opportunity to review the above Remarks, the Patent Examiner is respectfully requested to telephone the undersigned patent attorney in order to resolve these matters and avoid the issuance of another Official Action.

DEPOSIT ACCOUNT

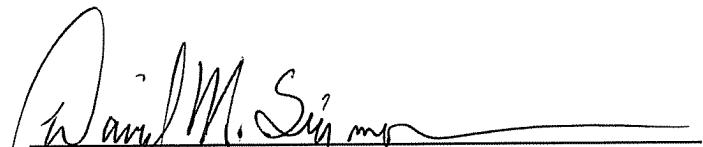
The Commissioner is hereby authorized to charge any fees associated with the filing of this correspondence to Deposit Account No. 50-0426.

Respectfully submitted,

JENKINS, WILSON, TAYLOR & HUNT, P.A.

Date: December 30, 2008

By:

  
David M. Sigmon  
Registration No. 52,224  
Customer No. 25297